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EXAMINER

THAKUR, VIREN A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,403

Applicant(s)

STRAND ET AL.

Examiner

Viren Thakur

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,14,16,18,19,75,79,82-86,93,104,107-112,122-128 and 130-147 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/5/03-12/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1,2,6-9,14,16,18,19,75,79,82-86,93,104,107-112,122-128 and 130-147.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed February 7, 2006, with respect to Claims 1,2,6-9,14,18,19,110,122 with regard to Herber et al. have been fully considered and are persuasive. The rejection of Claims 1,2,6-9, 14, 18, 19, 110 and 122 under 35 U.S.C Section 102(b) as being anticipated by Herber et al. (U.S. 5,525,363) has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made as set forth below.
2. Applicant's arguments filed with respect to the modification of the Belmont et al. reference as taught by Stolmeier et al. has been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Applicant argues that the obviousness rejection fails to point to either a teaching or an inference in either of the cited references or to anything which is found in the knowledge of one skilled in the art which could lead one skilled in the art to combine the references together. The Examiner observes that Belmont et al. teaches a preferential area of weakness that provides a one-time tamper evident feature (Figure 2, Item 40). Stolmeier teaches an alternative embodiment of a weakness that provides a tamper evident feature wherein a tamper evident hood enclosing the slider and reclosable closure (Figure 7, 7b) for the purpose of determining whether the packaged product has been opened or damaged (tampered) prior to customer purchase and use. Belmont et al. further disclose a tamper evident feature to be formed above the slide fasteners (Column 5, Lines 46-49). Stolmeier et al. additionally disclose a hood covering the slider and fasteners that can serve as tamper evidence. As taught by Stolmeier et al. it would be obvious to modify Belmont et al. in order to provide a more easily accessible slider fastener, as well. It would be further obvious to a person having ordinary skill in the art, as can be seen in Stolmeier et al., that placing the slider in a position whereby after removing the tamper evident hood said is above the area of structural weakness would promotes efficient use of the slider.

Furthermore, Applicant argues that the combination of Belmont et al. in view of Stolmeier et al. would not yield the claimed invention. As understood by the Examiner, the claimed invention discloses a reclosable bag comprising

engageable tracks at the fold of the web material, wherein the fold of the web material includes perforations therein that allow for the formed hood to be torn off, as one tamper evident feature. The Examiner points out that in both Belmont et al. and Stolmeier et al. there is a need for tamper evidence. Nevertheless, Stolmeier et al. further discloses that providing perforations will facilitate removal of the tamper evident hood that covers the closure members (Column 3, Line 65 to Column 4, Line 3). Thus, Stolmeier et al. teaches that a line of weakness, serving to facilitate removal, of a tamper evident feature can be formed above the engageable fasteners as opposed to below the fasteners.

3. With regard to Hayashi et al., May, and Boeckmann et al. Applicant argues that the cited as secondary references to teach areas of weakness and fail to fill in the deficiencies of the other references. The Examiner points out that Hayashi et al., May and Boeckmann et al. provide further motivation for modifying the teachings of Belmont et al as modified by Stolmeier et al. It is unclear as to what the Applicant regards as "failing to fill in the deficiencies of the other references or the teach the construction of the invention as presently claimed." Please refer to the maintained rejections below.
4. From the remarks filed February 7, 2006, the Examiner has understood that Applicant has referred to engageable fastener tracks or halves interchangeably; however, the language of Claim 104 does not cite this limitation.

Claim Objections

5. Claim 142 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Previously Claim 142 was dependent on Claim 125; as amended, Claim 142 is now dependent on Claim 143. Claims must only depend on preceding claims.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claims 104 and 107-109 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Claim recites the limitation "**fastener halves**" on Page 10, Line 21. It is unclear as to whether fastener halves refers to the entire male or female fastener or only the engageable track of the fastener structure. The examiner has interpreted

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fastener halves to mean the entire male and female sides of the fastener structure.

8. Claims 108, 111, 123, 127 and 144 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Claim recites the limitation "**at least a substantial portion.**" It is unclear as to how much of the fastener structure constitutes a substantial portion. The examiner understands "a substantial portion" as any portion of the "reclosable fastener extending beyond the portion of said sheet of web material opposite said opening."
9. Claim 125 is rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 125 recites the limitation "**said reclosable slider fastener**" on Page 13, Line 24. There is insufficient antecedent basis for this limitation in the claim.
10. Claim 142 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 142 recites the limitation "said slider" in the first paragraph of the claim. There is insufficient antecedent basis for this

limitation in the claim. Since there is no earlier recitation or limitation of "said slider" it is unclear as to what element "**said slider**" is making reference.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1, 2, 8, 9, 14, 75, 79, 83-86, 93, 104, 107, 108-111, 122, 125-128, 131, 133 and 144-146 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 75, 77, 78, 80, 84, 86-90 and 94 of U.S. Patent No. 7,086,782. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of

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U.S. Patent No. 7,086,782 contain every element of claims 1, 2, 8, 9, 14, 75, 79, 83-86, 93, 104, 107, 108-111, 122, 125-128, 131, 133 and 144-146 of the present application and as such anticipate claims 1, 2, 8, 9, 14, 75, 79, 83-86, 93, 104, 107, 108-111, 122, 125-128, 131, 133 and 144-146 of the present application.

12. Claims 125, 131, 133, 135-141 and 143 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 75,77-79, 86-92 and 95 of copending Application No. 10/300,355.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application 10/300,355 contain every element of claims 125, 131, 133, 135-141 and 143 of the present application and as such anticipate claims 125, 131, 133, 135-141 and 143 of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

13. Claims 1, 75, 83, 85, 86, 104, 125, 130, 131, 132, 139 and 144 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17, 20, 43, 44, 50, 55, 57, 60 and 85 of copending Application No. 10/300,487. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of

copending Application 10/300,487 contain every element of claims 1, 75, 83, 85, 86, 104, 125, 130, 131, 132, 139 and 144 of the present application and as such anticipate claims 1, 75, 83, 85, 86, 104, 125, 130, 131, 132, 139 and 144 of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claims 1, 75, 104, 125-128, 130 and 140-147 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 84, 89, 94-99, 102 and 103 of copending Application No. 10/300,609. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of copending Application 10/300,609 contain every element of claims 1, 75, 104, 125-128, 130 and 140-147 of the present application and as such anticipate claims 1, 75, 104, 125-128, 130 and 140-147 of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claim 104 is rejected under 35 U.S.C. 102(b) as being anticipated by Herber et al. (US 5,525,363). Herber et al disclose a pre-packaged reclosable bag containing cheese comprising a single sheet of web material (Figure 18, Item 204) having first, second, third, and fourth edges wherein said first and second edges are respectively located opposite each other in said single sheet of web material and said third and fourth edges are respectively located opposite each other in said single sheet of web material (Figure 1), and said single sheet of web material comprising a fold (Figure 18, Item 232) intermediate first edge (Figure 18, item 246) and second edges (Figure 18, Item 244) that defines two opposite sides of bag, defining an opening (Figure 18, Item 266; Column 14, Line 50-51), used for filling the bag with a food product, which is distally located with respect to said fold. Herbert et al. further discloses a line of weakness on opposite sides of said fold (Figure 18, Item 254) said areas of structural weakness integral to parent film, and extending linearly across the predetermined width of said sheet of web material (Figure 7, Item 254). The structural weakness comprising scoring (Column 3, Line 6-9). As further recited in Claim 1, Herber et al. disclose two fastener halves (Figure 18, Item 218, 220), located in said fold having skirt structures of skirt web material extending therefrom and said fastener halves of reclosable fastener structure extending past said areas of structural weakness

into said fold structure (Figure 18, Item 214, 216). The has interpreted fastener halves as the total structure of each side of the engageable fastener structure. Herber et al further discloses said skirt structures being integral to said fastener structure (Item 214, 216), extending toward said first and second edges (see skirt structures below engageable tracks); said two opposite sides of said reclosable bag being sealed at first and second edges of single sheet of web material (Column 15, Lines 22-34).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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19. Claim 1, 2,6-9,14,18,19,75,79,82-86,104,107-1 12,122-130,132,134-137,142-147 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belmont et al. (US 6,327,754 B1) in view of Stolmeier et al. (US 6,257,763 B1), as discussed in Non-Final Rejection mailed on September 7, 2005.
20. Claims 16,93, 131,138,139,141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belmont et al. (US 6,327,754 B1) in view of Stolmeier et al. (US 6,257,763 B1) as applied to claims 1,2,6-9,14,18,19,75,79,82-86,104,107-112,122-130, 132,134-137,142-147 further in view of Hayashi et al. (US 6074097), as discussed in Non-Final Rejection mailed on September 7, 2005.
21. Claim 133 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belmont et al. (US 6,327,754 B1) in view of Stolmeier et al. (US 6,257,763 B1) as applied to claims 1, 2,6-9,14,18,19,75,79,82-86,104,107-1 12,122-130,132,134-138,142-147 further in view of May (US 5,725,312), as discussed in Non-Final Rejection mailed on September 7, 2005.
22. Claim 140 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belmont et al. (US 6,327,754 B1) in view of Stolmeier et al. (US 6,257,763 B1) as applied to claims 1,2,6-9,14,18,19,75,79,82-86,104,107-1 12,122-130,132,134-138,142-147 further in view of Boeckmann et al, as discussed in Non-Final Rejection mailed on September 7, 2005.

23. Claims 1, 2, 6-9, 14, 16, 18, 19, 75, 79, 82-86, 93, 104, 107-112, 122-128, 130, 132-139, 142-147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herber et al (US 5,525,363) in view of Stolmeier et al. (US 6,257,763). **With regard to Claims 1, 75, 104, 125 and 144**, Herber et al disclose a pre-packaged reclosable bag containing cheese comprising a single sheet of web material (Figure 18, Item 204) having first, second, third, and fourth edges wherein said first and second edges are respectively located opposite each other in said single sheet of web material and said third and fourth edges are respectively located opposite each other in said single sheet of web material (Figure 1), and said single sheet of web material comprising a fold (Figure 18, Item 232) intermediate first edge (Figure 18, item 246) and second edges (Figure 18, Item 244), **as further recited in Claim 130**, that defines two opposite sides of bag, defining an opening (Figure 18, Item 266; Column 14, Line 50-51), used for filling the bag with a food product, which is distally located with respect to said fold. Herber et al. defines two opposite sides of bag, defining an opening (Figure 18, Item 266; Column 14, Line 50-51), used for filling the bag with a food product, which is distally located with respect to said fold. An opening is defined (Figure 18, Item 266 – shows the opening after it is sealed) wherein the edges perpendicular to the edge formed by a fold are sealed together (Column 7, Lines 49-62); the opening formed by first and second edges being located adjacent each other and distal with respect to said fold from said opening. Herbert et al. further discloses

a line of weakness on opposite sides of said fold (Figure 18, Item 254) (**as further recited in Claim 83, 130, 136**); said areas of structural weakness integral to parent film, **as recited in Claims 7, 84 and 134**, and extending linearly across the predetermined width of said sheet of web material, **as recited in Claims 8, 9, 14, 85, 86, and 132** (Figure 7, Item 254). Herber et al. further disclose an engageable fastener structure (Figure 3, Item 24, Item 26) comprising two releasable engageable tracks (Figure 3, Item 32, Item 34) each having a skirt structure of skirt web material extending therefrom (Figure 4, See Below Items 32 and 34); with said skirt structure including distal margins (Figure 4, Item 24, Item 26) being respectively coupled to said web material on opposite sides of reclosable bag at opposite locations between areas of structural weakness (Figure 18, Item 214) and said opening (Figure 18, Item 266; Column 7, Lines 49-56). After filling with food product said opening is then sealed to enclose the food product inside said bag (Column 7, Lines 56-59). The structural weakness comprising scoring (Column 3, Line 6-9), **as recited in Claims 16, 93 and 139**, thus defining two predetermined tear areas comprising two areas of structural weakness and wherein said fold structure is located between and defined by said to areas of structural weakness, **as recited in Claim 83**. **As further recited in Claim 1, 75, 104, 125 and 144**, Herber et al. disclose two releasably engageable tracks (Figure 18, Item 218, 220), located in said fold having skirt structures of skirt web material extending therefrom (Figure 18, Item 214, 216); with said skirt structures, **as recited in Claims 2 and 79** being integral

to said fastener structure (Item 214, 216), extending toward said first and second edges (see skirt structures below engageable tracks); said two opposite sides of said reclosable bag being sealed at first and second edges of single sheet of web material (Column 15, Lines 22-34). **As recited in Claims 6 and 82** the parent film material having predetermined dimensions (Column 6, Lines 50-58). **As recited in Claims 18 and 135**, Herber et al. disclose the single sheet of web material being multi-laminate (Figure 18, Item 204; Column 5, Lines 48-54), wherein said film includes a perforated tear path (Figure 18, Item 254), **as recited in Claims 19, 107, 110, 122, 126, 137, 138 and 145**, thus defining a tear off hood. The examiner has considered **perforations** and **micro perforations** to be interchangeable since it is not disclosed as to how a micro perforation compares to a perforation. Herber et al. further discloses the fastener tracks being coupled to each other thereby forming a peelable hermetic seal, **as recited in Claim 133** (Column 33, Line 34-43; Figure 18, Item 264).

As recited in Claims 1, 75, 104, 125, 144 and 146 Herber et al. does not disclose the releasable engageable tracks of the reclosable fastener structure extending past said areas of structural weakness and into said fold structure, and reclosable fastener structures extending beyond said sheet of web material when tear off portion has been removed.

Stolmeier et al. teaches a tamper evident bag having a reclosable fastener structure, having wherein the engageable fastener structures (Figure 7, Item 70) extend above an area of structural weakness (Figure 7, Item 72) and into a fold

structure (Figure 7, Item 71). It is noted that the structural weakness and subsequent fold structure is the tamper evident feature in this embodiment. It would be further obvious (Figure 7), that removal of the tamper evident hood will provide for easier access to the fastening tracks.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Herbert et al. to extend the fastener structures above the area of structural weakness as taught by Stolmeier et al. for the purpose of providing greater accessibility to the reclosable tracks and providing a greater opening distance when the track is opened (Column 1, Lines 51-54).

With regard to Claim 108, 109, 111, 112, 123, 124, 127, 128, 132, 146 and 147, Herber et al. disclose a reclosable bag for cheese wherein the bag comprises engageable tracks to re-close the bag as well as a tamper evident hood containing a perforation to assist in tearing off said hood thereby exposing the engageable tracks, as discussed above. Herbert et al. does not disclose the engageable tracks of the reclosable fastener structures extending beyond said sheet of web material when said tear off portion has been removed therefrom.

Stolmeier et al. teaches a tamper evident bag having an embodiment where the tamper evident feature is a hood comprising a fastenable track oriented above perforations for said tamper evident hood. Therefore, when this tamper evident hood is torn, the reclosable track is completely exposed above the sheet of web material; thus allowing improved access to the fastener structure.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Herbert et al. to provide a tear off portion that provides for the engageable track extending above the sheet of web material, as taught by Stolmeier et al. in order to provide a tamper evident feature, whereby when removed, allows for improved access to the engageable track.

With further regard to Claims 142 and 143, Herber et al. disclose a reclosable bag for cheese wherein the bag comprises engageable tracks to reclose the bag, as well as a tamper evident hood containing a perforation to assist in tearing off said hood, thereby exposing the engageable tracks, as discussed above. Herber et al. further teach first and second engageable tracks that are sealed to their respective front and rear panels (Column 5, Lines 3-5; Figure 3, Items, 88, 35, 37) and are also sealed to each other (Column 5, Lines 8-10; Figure 3, Item 36). Herber et al. does not disclose the reclosable bag additionally comprising a slider that is moveable on said first and second fastener tracks between opposite ends of said first and second fastener tracks to selectively engage said tracks together and disengage said first and second fastener tracks, thereby respectively closing and opening said reclosable bag.

Stolmeier et al. teach a reclosable tamper evident bag used for containing food products, having reclosable tracks that are further (Figure 2, Item 35) opened and closed using a slider, wherein the ends of the engageable tracks are sealed together to hold the slider in position.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Herber et al. to include a slider zipper to open and close the engageable tracks as taught by Stolmeier et al. in order to facilitate opening and closing of the bag. Such a modification ensures that the engageable tracks will always engage, therefore providing a closed seal on the first attempt. It is obvious to a person having ordinary skill in the art that the slider also prevents accidental tearing of the bag, since the user only needs to move the slider to disengage the tracks, versus pulling both sides of the bag in opposite directions thus increasing the stress on the sealed edges of the bag. It is further obvious that if Herbert et al. teach a bag having reclosable tracks sealed to respective walls and subsequently sealed to each other, then the edges are sealed so that when taught by Stolmeier et al. the slider zipper will be secured to the track.

24. Claim 140 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herber et al. (US 5,525,363) in view of Stolmeier et al (US 6,257,763) as applied to claims 1, 2, 6-9, 14, 16, 18, 19, 75, 79, 82-86, 93,104, 107-112, 122-128, 130, 132-139, 142-147 above, and further in view of Boeckmann et al (US 4,846,585). Herber et al. disclose a reclosable bag for cheese wherein the bag comprises engageable tracks to re-close the bag as well as a tamper evident hood containing a perforation to assist in tearing off said hood thereby exposing the engageable tracks, as discussed above. Herber et al. does not disclose a tear

tape structure coupled to said web material and adjacent to at least one of said areas of structural weakness.

Boeckmann et al. teach food bags with reclosable fasteners with a tamper evident area of perforation lines. In order to maintain a hermetically sealed environment, Boeckmann et al. provide a tear tape adjacent the perforation lines (Column 1, Line 5 to Column 2 Line 17, Column 3, Lines 23-48).

Therefore, it would have been obvious to further modify Herber et al. and include a tear tape adjacent the lines of perforation since Belmont et al. teach a hermetically seal bag and Boeckmann et al. teach tear tapes placed adjacent to the perforation lines of a reclosable food bag will seal the perforation lines and maintain a hermetically sealed environment.

25. Claims 131 and 141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herber et al. (US 5,525,363) in view of Stolmeier et al (US 6,257,763) as applied to claims 1, 2, 6-9, 14, 16, 18, 19, 75, 79, 82-86, 93, 104, 107-112, 122-128, 130, 132, 134-139, 143, 145-147 above, and further in view of Hayashi et al (US 6,074,097). Herber et al. disclose a reclosable bag for cheese wherein the bag comprises engageable tracks to re-close the bag as well as a tamper evident hood containing a perforation to assist in tearing off said hood thereby exposing the engageable tracks, as discussed above. Herber et al. does not disclose the structural weakness comprising a hermetic seal and notches in said sides of front

and rear panels of said reclosable bag adjacent opposite ends of said areas of structural weakness.

Hayashi et al. teach it is well known in food package art (including pouches) to include tearing incisions, on the outer surfaces of films to a film-based package, and Hayashi et al. teach a particular method to form tear notches in combination with a line of weakness on the outer layer only (i.e. which would maintain the desired hermetic seal of Herber et al.) so that the package can be easily torn (Column 1, Line 15 to Column 2, Line 8, as illustrated in Figures 5a,11,12). Additionally the line of weakness formed by micro perforations (i.e. the middle part Q's size range of 20-2'00 microns) in (Column 13, line 56 to Column 14, line 28 and Figure 11).

Therefore, it would have been obvious to further modify Herber et al. such that the line of weakness is hermetically sealed and that the line of weakness comprises micro perforations and notched ends, since Hayashi et al. teach it is conventional to provide lines of weakness on the outer layer only of a multilayer film (i.e. preserving the hermetic seal of Belmont et al.) and providing micro perforation in combination with notches will allow one to easily tear and remove a portion of a multilayer food pouch.

Conclusion

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26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,725,312 disclose closure arrangements for polymeric (plastic) bags and, more particularly, relates to a closure arrangement having a peelable seal or breakaway seal.
27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viren Thakur whose telephone number is

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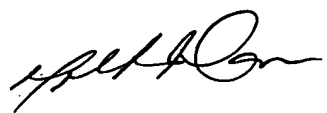
(571)-272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571)272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Viren Thakur
July 20, 2006



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